

STATE OF NEW JERSEY
Board of Public Utilities
Office of Cable Television

ADMINISTRATIVE CONSENT
AGREEMENT

IN THE MATTER OF AN INQUIRY INTO
THE OPERATIONS OF RCN TELECOM
SERVICES, INC.

Docket No. CX01070460

APPEARANCES:

David Samson, Attorney General of New Jersey, by Todd C. Steadman, Deputy Attorney General and David A. Brooks, Deputy Attorney General, on behalf of the Staff of the Office of Cable Television, Board of Public Utilities
Arturi, D'Argenio & Guaglardi, L.L.P., by Robert G. Goode, Esq., on behalf of RCN Telecom Services, Inc.

WHEREAS, the New Jersey Board of Public Utilities ("Board") and its Office of Cable Television ("Office") have general supervisory authority over cable television operators pursuant to the New Jersey Cable Television Act ("Act"), N.J.S.A. 48:5A-1 et seq., and the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 et seq.; and

WHEREAS, pursuant to N.J.S.A. 48:5A-2, the Legislature has determined that it is in the public interest to regulate cable television operators in a manner that promotes adequate, economical and efficient cable television service to the citizens of this State, that promotes and encourages harmony between cable television companies and their subscribers, and that protects the interests of the municipalities of this State in relation to the issuance of municipal consents for the operation of cable television companies within their jurisdiction, and to ensure a degree of uniformity in the operation of such cable television companies; and

WHEREAS, pursuant to N.J.S.A. 48:5A-36, every cable operator is required to provide safe, adequate and proper service, equipment and facilities for the operations of its CATV system; and

WHEREAS, pursuant to N.J.S.A. 48:5A-48, after affording an opportunity for hearing, the Board has the authority to require a cable television company to make reasonable repairs or improvements to its system; and

WHEREAS, RCN Telecom Services, Inc. (hereinafter “the Company”), with its principal office located at 105 Carnegie Center, Princeton, New Jersey 08540-6215, is a franchised cable television operator which provides cable services to approximately 80,799 New Jersey subscribers in 31 communities throughout Hunterdon, Mercer, Morris and Somerset Counties; and

WHEREAS, in the course of exercising its general supervisory authority over cable television companies, the Board and the Office have determined that it is reasonable to conduct a detailed review of the operations of the Company; and

WHEREAS, in the course of that review, the Board and the Office conducted Service Hearings in the Borough of Princeton on September 6, 2001 and in the Township of Clinton on September 10, 2001, and received the comments of numerous witnesses concerning, among other things, the adequacy of the Company’s cable television and customer service; and

WHEREAS, John Pitts, a senior management representative of the Company, appeared at said Service Hearings to hear the concerns expressed by the Company’s subscribers, and to deliver a statement on behalf of the Company outlining certain commitments; and

WHEREAS, as part of its statement, the Company committed to, among other things, invest an amount anticipated to be approximately \$75 million to complete a rebuild of cable television facilities serving the 31 municipalities in its Central New Jersey system (hereinafter “Rebuild”) over a three year period; and

WHEREAS, the Company outlined certain benefits of said rebuild that would inure to its customers, including, two-way high-speed cable modem service, access to more than 200 high-quality digital cable channels and 45 CD-quality music channels, increased network reliability, and

improved picture quality; and

WHEREAS, the Company pledged to do a better job of keeping local officials, its subscribers and all interested parties informed of the developments and its progress in their area, and to respond more quickly and effectively to other service issues that may arise; and

WHEREAS, the Company further pledged to provide each community and governing authority regular updates and progress reports regarding its rebuild and service initiatives; and

WHEREAS, the Company represents that it enacted certain customer service enhancements designed to improve its responsiveness and overall customer service; and

WHEREAS, on February 3, 1999 the Board issued an Order, Docket No. CE98050308, I/M/O The Petition of RCN of New Jersey, Inc. for Renewal of its Certificate of Approval to Own, Operate and Maintain a Cable Television System in the Township of Hillsborough, Somerset County, State of New Jersey., in which, *inter alia*, the Board directed the Company to rebuild the Hillsborough cable television system to a capacity of 750 MHZ within 36 months of the issuance of the Certificate; and

WHEREAS, on March 15, 2002 the Board issued a Subpoena Duces Tecum and Subpoena Ad Testificandum, which required the Company to appear at the Board with ten named principals for a deposition and to supply the Office of Cable Television with financial, technical and system management information concerning the Company's New Jersey cable systems; and

WHEREAS, in an effort to ensure that the Company will continue to provide safe, adequate and proper cable television service, and to avoid the necessity of more formal administrative proceedings, and in consideration of the commitments heretofore made by the Company, the Company and the Office agree to the following:

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

DEFINITIONS

1. As used in this Administrative Consent Agreement, the following definitions shall apply:
 1. "the Company" means RCN Telecom Services, Inc., as well as its subsidiaries, successors and assigns, affiliates, and directors, officers, employees, agents and representatives, in their official capacities.
 2. "the Company's parent organization" means RCN Corporation, as well as its subsidiaries, successors and assigns, affiliates, and directors, officers, employees, agents and representatives, in their official capacities.
 3. "Director" means the Director of the New Jersey Office of Cable Television.
 4. "Rebuild" means the physical upgrade of a cable system, generally involving the addition of network channel capacity and including, as necessary, the replacement of cable distribution facilities, amplifiers, power supplies, passive devices and sometimes the strand, hardware and subscriber equipment.
2. The Company shall institute and complete a rebuild of its cable television system as more specifically described in Attachment 1, annexed hereto and incorporated herein. Said rebuild shall be completed and all necessary capital expenditures made in accordance with the schedule enumerated in Attachment 1, and shall be completed for all phases no later than December 31, 2004. Said rebuild, at its conclusion, shall further ensure that the entirety of the Company's New Jersey

cable television systems shall be of a minimum capacity of 750 megahertz (MHZ) and be capable of providing two-way high-speed cable modem service, high-quality digital cable channels and CD-quality music channels to its subscribers. For the purposes of compliance with the requirements of the within Agreement, the Company will commit to the expenditure of the necessary capital, anticipated to be approximately \$75 million in the aggregate, to accomplish the rebuild construction as anticipated herein. During the course of the rebuild construction, the Company agrees that it will provide periodic progress reports to the Office regarding such construction in the time and manner specified in Attachment 2, annexed hereto and incorporated herein. Further, the Company agrees that it shall comply with all applicable statutes, rules, regulations, orders and ordinances, including municipal consent ordinances.

3. The Company shall tender the sum of fifty thousand dollars (\$50,000.00) payable to the Department of Education, State of New Jersey, payable July 10, 2003, to support educational programs, consistent with appropriate language in the New Jersey state budget permitting both the receipt and expenditure of these funds. The Company shall also extend to its New Jersey cable television customers an in-kind benefit in the aggregate amount of one million two hundred thousand dollars (\$1,200,000.00) in full settlement with the Board and OCTV of any alleged violation of a Board Order or Subpoena in the within matter. Such credit will be established beginning with the Company's next available billing cycle following approval by the Board and all credits will be issued within 60 (sixty) days of approval by the Board.
4. In accord with the requirements of N.J.A.C. 14:18-7.7, the Company agrees that it will supply the Office with traffic reports on telephone usage for all telephone lines that serve New Jersey customers. For all call centers that handle multi-jurisdictional telephone traffic, all traffic for New Jersey will be segregated for

reporting, tracking and measurement of compliance with the call handling requirements established under 47 CFR § 309, N.J.A.C. 14:18-7.7 and any other relevant State or Federal regulations. Further, as circumstances dictate and as may be reasonably requested by the Office, the Company agrees that it shall record and submit additional data, within the capabilities of its telephone system, or conduct or have conducted, other or more detailed telephone traffic analyses for submission to the Office.

5. During the term of the rebuild construction anticipated herein, the Company agrees that it will install and maintain a subscriber telephone “hot-line” intended to provide information to subscribers dealing exclusively with the rebuild project detailed herein. Such “hot-line” shall be separate and apart from the day-to-day telephone operations of the Company and, during normal business hours, shall be manned by Company employees knowledgeable about the rebuild project. At all other times, subscribers calling the “hot-line” shall be afforded the ability to access a voice mail option in order to inquire regarding the rebuild construction. The Company agrees to work in good faith with the Office in attaining the goals of the within paragraph.
6. During the term of the rebuild construction anticipated herein, the Company agrees to cooperate with the Office in reviewing the current training techniques for its customer service representatives and, as may be mutually agreed, the Company further agrees to expand those programs and to implement new ones and to ensure an ongoing process of quality control intended to maintain and improve the customer service skills of the Company’s employees, and ensure the Company’s overall compliance with the call answering standards set forth in 47 CFR § 309, and any other State or Federal regulations hereinafter enacted. Additionally, the Company agrees to work in good faith with the Office in attaining the goals of the within paragraph.

7. During the term of the rebuild construction anticipated herein, the Company agrees to cooperate with the Office in reviewing the current training techniques for its technical field personnel and, as may be mutually agreed, the Company further agrees to expand those programs and to implement new ones and to ensure an ongoing process of quality control intended to maintain and improve the Company's technical field operations. Additionally, the Company agrees to work in good faith with the Office in attaining the goals of the within paragraph.
8. The Company agrees to cooperate with the Office in the scheduling of further service hearings, as the Office may deem appropriate. The Company further agrees to arrange for the transcription of any such hearings and the delivery of such transcripts to the Office.
9. During the course of the rebuild construction contemplated herein, the Company agrees to continue to provide timely cooperation with the Office and, on an ongoing basis, to engage in good-faith discussion with the Office to ensure that the undertakings described herein are completed in accord with the provisions of this Agreement and are responsive to the Company's requirement to provide safe, adequate and proper cable television service.
10. Further, during the same period of rebuild construction, the Company also agrees to continue to provide its full cooperation with the franchising municipalities within its system. At the request of the respective communities or the Office, and in addition to the hearings contemplated by paragraph 7. herein, such cooperation shall include, but not be limited to, the Company's participation in and attendance at periodic local meetings intended to keep the communities apprised of the progress of the rebuild project, to address problems, concerns or inquiries raised by the municipal authorities or by the Company's subscribers relative to the rebuild project or other matters of import to the various municipalities, and most

importantly to ensure that a forum exists for the open discussion of community issues as they may reasonably relate to the rebuild project contemplated herein.

11. The Company agrees that it will take any reasonable measure to ensure the timely restoration of property damage or displacement resulting from its underground construction.
12. By executing this agreement, the Company's parent organization is submitting itself to the subject matter jurisdiction of the Board insofar as the within instrument is concerned, and only for the purpose of ensuring compliance with the overall purpose and intent of such agreement. The terms and conditions of this agreement are in no way intended to expand or extend the jurisdiction of the Board or the Office beyond the scope of such jurisdiction as the same is enumerated at N.J.S.A. 48:5A-1 et seq. Accordingly, the Company shall continue to be solely and exclusively responsible for the operation and management of the cable television system and for compliance with the specific provisions hereof. Further, it is expressly understood that this paragraph shall not be construed as limiting the jurisdiction of the Office or the Board in any current or future matter outside of this agreement.
13. The Company agrees that any agreements, commitments and/or representations referenced in this document or attachments are fully enforceable as if set forth in an Order of the Board.
14. The parties agree that a violation of this Agreement or any subsequent violation of law may subject the Company and its parent organization to enhanced penalties as delineated in N.J.S.A. 48:5A-51 as may from time to time be amended, or any such other relevant statutes as may be in effect, as may be deemed just and proper.

15. A violation of this Agreement by the Company and/or its parent organization shall be determined by the Board, the Director, or such other competent authority that may have the power and authority to make such a determination under law, only after the alleged violator has been provided notice and the opportunity to be heard with respect to any such allegation.
16. This Agreement shall be governed by the laws of the State of New Jersey.
17. The Company and the Company's parent organization expressly represents and warrants that it is represented by the undersigned legal counsel, that it is fully advised of its legal rights and obligations in this matter, and that the person(s) signing below is fully authorized to act on its behalf in the execution of this Agreement.

18. Nothing contained in this Agreement shall be construed to deprive any consumer or other person or entity of any private right under the law.

FOR RCN TELECOM SERVICES, INC.

DATED: 2/5/03 (signed)

Robert G. Goode, Esq.

FOR RCN CORPORATION

DATED: 2/5/03 (signed)

Philip J. Passanante, Esq.
Corporate Counsel

FOR THE STAFF OF THE NEW JERSEY BOARD OF
PUBLIC UTILITIES
DAVID SAMSON, ATTORNEY GENERAL OF NEW
JERSEY

DATED: 2/5/03 (signed)

By: Todd C. Steadman
Deputy Attorney General

ATTACHMENT 1

RCN CONSENT AGREEMENT CONSTRUCTION COMMITMENTS

<u>HUB/MUNICIPALITY</u>	<u>PROPOSED COMMENCEMENT</u>	<u>COMPLETION</u>	<u>CONST. PHASE</u>	<u>AERIAL MILEAGE</u>	<u>UNDERGROUND MILEAGE</u>	<u>TOTAL MILEAGE</u>
<u>HILLSBOROUGH HUB</u>						
HILLSBOROUGH	October-01	July 15, 2002	0	139	150	289
FRANKLIN	October-01	June 30, 2003	0	206	120	326
MILLSTONE	October-01	June 30, 2003	0	0	0	0
PRINCETON TOWNSHIP	October-02	June 30, 2003	I	71	34	105
MONTGOMERY	October-02	June 30, 2003	I	99	113	212
BRANCHBURG	October-02	June 30, 2003	I	69	55	124
ROCKY HILL	October-02	June 30, 2003	I	5	0	5
PRINCETON BOROUGH	October-02	June 30, 2003	I	27	5	32
<u>PEAPACK HUB</u>						
TEWSBURY	July-03	July 31, 2004	II	27	10	37
PEAPACK GLADSTONE	July-03	July 31, 2004	II	19	2	21
FAR HILLS	July-03	July 31, 2004	II	8	1	9
BEDMINISTER	July-03	July 31, 2004	II	17	2	19
MENDHAM BOROUGH	July-03	July 31, 2004	II	45	9	54
MENDHAM TOWNSHIP	July-03	July 31, 2004	II	56	13	69
LONG HILL	July-03	July 31, 2004	II	49	14	63
CHATHAM	July-03	July 31, 2004	II	46	16	62
CHESTER TOWNSHIP	July-03	July 31, 2004	II	44	13	57
CHESTER BOROUGH	July-03	July 31, 2004	II	12	3	15
BERNARDSVILLE	July-03	July 31, 2004	II	50	13	63
HARDING	July-03	July 31, 2004	II	24	6	30
<u>FRANKLIN HUNT HUB</u>						
FLEMINGTON	July-03	July 31, 2004	II	22	12	34
BETHLEHEM	July-03	July 31, 2004	II	22	5	27
UNION	March-04	December 31, 2004	III	34	5	39
CLINTON TOWNSHIP	March-04	December 31, 2004	III	67	50	117
LEBANON	March-04	December 31, 2004	III	11	2	13
CLINTON TOWN	March-04	December 31, 2004	III	23	3	26
RARITAN	March-04	December 31, 2004	III	126	63	189
READINGTON	March-04	December 31, 2004	III	106	45	151
FRANKLIN (HUNTERDON)	March-04	December 31, 2004	III	18	2	20
DELEWARE	March-04	December 31, 2004	III	18	4	22
EAST AMWELL	March-04	December 31, 2004	III	30	4	34

TOTAL MILES

2,265

ATTACHMENT 2

RCN CONSENT AGREEMENT REPORTING REQUIREMENTS

MONTHLY PROGRESS REPORTS –

- POLE REARRANGEMENTS REQUESTED AND COMPLETED
- MILES DESIGN
- STAND MILES
- CABLE MILES/REBUILD
- ELECTRONIC CHANGE OUT MILES
- ACTIVATED MILES
- NUMBER OF SUBSCRIBERS SERVED BY NEW SYSTEM
- WRECK OUT MILES

QUARTERLY ORDER VERIFICATION STATUS REPORTS –

- A SUMMARY PREPARED BY THE COMPANY ON A QUARTERLY BASIS WHICH REPORT SHALL ENABLE THE OFFICE TO ENSURE THAT THE COMPANY HAS ORDERED SUFFICIENT MATERIAL AND EQUIPMENT, INCLUDING STRAND, CABLE, ACTIVE AND PASSIVE EQUIPMENT TO PERMIT THE CONTINUED CONSTRUCTION THROUGHOUT THE ENSUING QUARTER YEAR.

ANNUAL FINANCING STATUS REPORT –

- CERTIFICATIONS FROM THE CHIEF FINANCIAL OFFICERS OF RCN TELECOMMUNICATIONS SERVICES, INC. AND RCN CORPORATION INDICATING THAT CONSTRUCTION COSTS TO DATE HAVE BEEN SATISFIED FROM OPERATING CASH FLOW OF THE COMPANY AND ENSURING THAT SUCH FUTURE COSTS WILL BE SIMILARLY SATISFIED OR WILL BE FORTHCOMING FROM THE FUNDS OF RCN TELECOMMUNICATIONS SERVICES, INC. AND/OR RCN CORPORATION OR FROM AN ALTERNATIVE SOURCE SATISFACTORY, IF NECESSARY, TO THE BOARD. SUCH FINANCING CERTIFICATION SHALL INCLUDE INFORMATION RELATIVE TO THE SOURCES AND USES OF FUNDS NECESSARY TO ACCOMPLISH THE CONTEMPLATED CONSTRUCTION AND SHALL ALSO INCLUDE ESTIMATES RELATIVE TO COMPLETED CONSTRUCTION AND PLANNED CONSTRUCTION FOR THE ENSUEING PERIOD.

SPECIAL MONTHLY REPORTS FOR UNDERGROUND CONSTRUCTION AND RESTORATION –

- AREAS UNDER CONSTRUCTION, INCLUDING STREET NAMES
- AREAS PLANNED FOR CONSTRUCTION FOR NEXT MONTH
- AREAS BEING RESTORED AND NOT COMPLETED WITHIN THIRTY (30) DAYS OF ACTIVATION OF REBUILD/UPGRADE CABLE PLANT AND ESTIMATED COMPLETION OF RESTORATION
- AREAS WHERE RESTORATION IS COMPLETE